

CITY OF NEWPORT BEACH
PLANNING COMMISSION SUPPLEMENTAL STAFF REPORT

January 17, 2013 Meeting
Agenda Item 3

SUBJECT: Residential Lot Merger Code Amendment - (PA2012-102)
▪ Code Amendment CA2012-007

APPLICANT: City of Newport Beach

PLANNER: Patrick J. Alford, Planning Manager
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Staff has determined that minor revisions to the proposed code amendment are needed in order to clarify that proposed regulation would only apply to those lots where the lot width was increased by more than fifty (50) percent. These changes have been incorporated into both the text of the draft resolution and Exhibit A. The new edits are highlighted.

Prepared by:



Patrick J. Alford, Planning Manager

Submitted
by:



Brenda Wisneski, AICP, Deputy Director

ATTACHMENTS

Revised Draft Resolution

RESOLUTION NO. _____

**A RESOLUTION OF THE PLANNING COMMISSION OF THE
CITY OF NEWPORT BEACH RECOMMENDING CITY COUNCIL
ADOPTION OF CODE AMENDMENT NO. CA2012-007
RESTRICTING THE MAXIMUM ALLOWABLE RESIDENTIAL
FLOOR AREA ON LOT RECONFIGURATIONS RESULTING IN
LOT WIDTH INCREASES OF MORE THAN FIFTY PERCENT
(PA2012-102)**

THE PLANNING COMMISSION OF THE CITY OF NEWPORT BEACH HEREBY FINDS AS FOLLOWS:

SECTION 1. STATEMENT OF FACTS.

1. On August 14, 2012, the City Council initiated an amendment of the Zoning Code and the Subdivision Code that would modify residential development standards so that the future merger of two or more lots in the single-unit and two-unit zoning districts of Balboa Island, Balboa Peninsula, Corona del Mar, Lido Isle, and West Newport would result in no net increase in the maximum allowable floor area that existed prior to the merger.
2. A public hearing was held on January 17, 2013, in the City Hall Council Chambers, 3300 Newport Boulevard, Newport Beach, California. A notice of time, place and purpose of the meeting was given in accordance with the Newport Beach Municipal Code. Evidence, both written and oral, was presented to, and considered by, the Planning Commission at this meeting.

SECTION 2. CALIFORNIA ENVIRONMENTAL QUALITY ACT DETERMINATION.

The code amendment is categorically exempt under Section 15305, of the California Environmental Quality Act (CEQA) Guidelines – Class 5 (Minor Alterations in Land Use Limitations) because the properties involved have an average slope of less than 20 percent; and the and proposed amendment would not result in any changes in land use or density.

SECTION 3. FINDINGS.

1. Parcel maps, lot line adjustments, and lot mergers can result in the elimination of setback areas resulting in larger buildable areas and potentially larger residential units.
2. The proposed amendment will modify the residential development standards of the R-1, R-BI, and R-2 Zoning Districts so that any existing lot in Balboa Island, Balboa Peninsula, Corona del Mar, Lido Isle, and West Newport that has been reconfigured by a lot merger, lot line adjustment, or parcel map that resulted in an increased lot width of more than fifty (50) percent on the largest of the lots involved in the reconfiguration, the maximum gross floor area permitted on the lot shall not exceed that which would have otherwise been permitted if the lots were developed individually prior to the reconfiguration.

NOW, THEREFORE, BE IT RESOLVED:

The Planning Commission of the City of Newport Beach hereby recommends approval of Code Amendment No. CA2012-007 as set forth in Exhibit "A."

PASSED, APPROVED AND ADOPTED THIS _17th DAY OF JANUARY, 2013.

AYES:

NOES:

ABSTAIN:

ABSENT:

BY: _____
Michael Toerge, Chairman

BY: _____
Fred Ameri, Secretary

EXHIBIT A
Code Amendment No. CA2012-007

Section 19.12.070.A

A. Required Findings for Approval. In approving a tentative tract map or tentative parcel map, the decision making body shall make all of the following findings:

1. That the proposed map and the design or improvements of the subdivision are consistent with the General Plan and any applicable specific plan, and with applicable provisions of the Subdivision Map Act and this Subdivision Code;
2. That the site is physically suitable for the type and density of development;
3. That the design of the subdivision or the proposed improvements are not likely to cause substantial environmental damage nor substantially and avoidably injure fish or wildlife or their habitat. However, notwithstanding the foregoing, the decision making body may nevertheless approve such a subdivision if an environmental impact report was prepared for the project and a finding was made pursuant to Section 21081 of the California Environmental Quality Act that specific economic, social or other considerations make infeasible the mitigation measures or project alternatives identified in the environmental impact report;
4. That the design of the subdivision or the type of improvements is not likely to cause serious public health problems;
5. That the design of the subdivision or the type of improvements will not conflict with easements, acquired by the public at large, for access through or use of property within the proposed subdivision. In this connection, the decision making body may approve a map if it finds that alternate easements, for access or for use, will be provided and that these easements will be substantially equivalent to ones previously acquired by the public. This finding shall apply only to easements of record or to easements established by judgment of a court of competent jurisdiction and no authority is hereby granted to the City Council to determine that the public at large has acquired easements for access through or use of property within a subdivision;
6. That, subject to the detailed provisions of Section 66474.4 of the Subdivision Map Act, if the land is subject to a contract entered into pursuant to the California Land Conservation Act of 1965 (Williamson Act), the resulting parcels following a subdivision of the land would not be too small to sustain their agricultural use or the subdivision will result in residential development incidental to the commercial agricultural use of the land;
7. That, in the case of a "land project" as defined in Section 11000.5 of the California Business and Professions Code: (1) There is an adopted specific plan for the area to be included within the land project; and (2) the decision making body finds that the proposed land project is consistent with the specific plan for the area;

8. That solar access and passive heating and cooling design requirements have been satisfied in accordance with Sections 66473.1 and 66475.3 of the Subdivision Map Act;
9. That the subdivision is consistent with Section 66412.3 of the Subdivision Map Act and Section 65584 of the California Government Code regarding the City's share of the regional housing need and that it balances the housing needs of the region against the public service needs of the City's residents and available fiscal and environmental resources;
10. That the discharge of waste from the proposed subdivision into the existing sewer system will not result in a violation of existing requirements prescribed by the Regional Water Quality Control Board; ~~and~~
11. For subdivisions lying partly or wholly within the Coastal Zone, that the subdivision conforms with the certified Local Coastal Program and, where applicable, with public access and recreation policies of Chapter Three of the Coastal Act; ~~and~~
12. For subdivisions involving the reconfiguration of existing lots within the R-1, R-BI, and R-2 Zoning Districts of Balboa Island, Balboa Peninsula, Corona del Mar, Lido Isle, and West Newport, as identified in the Zoning Code: when the reconfiguration results in an increase in the lot width of more than fifty (50) percent on the largest lot involved in the reconfiguration, the maximum gross floor area permitted on this lot shall not exceed that which would have otherwise been permitted if the lots were developed individually prior to the reconfiguration.

Section 19.68.030.H

H. Required Findings. All of the following findings shall be made prior to approval of a lot merger:

1. Approval of the merger will not, under the circumstances of this particular case, be detrimental to the health, safety, peace, comfort and general welfare of persons residing or working in the neighborhood of such proposed use or be detrimental or injurious to property and improvements in the neighborhood or the general welfare of the City, and further that the proposed lot merger is consistent with the legislative intent of this title; and
2. The lots to be merged are under common fee ownership at the time of the merger; and
3. The lots as merged will be consistent or will be more closely compatible with the applicable zoning regulations and will be consistent with other regulations relating to the subject property including, but not limited to, the General Plan and any applicable Coastal Plan or Specific Plan; and
4. Neither the lots as merged nor adjoining parcels will be deprived of legal access as a result of the merger; and
5. The lots as merged will be consistent with the surrounding pattern of development and will not create an excessively large lot that is not compatible with the surrounding development.

6. Within the R-1, R-BI, and R-2 Zoning Districts of Balboa Island, Balboa Peninsula, Corona del Mar, Lido Isle, and West Newport, as identified in the Zoning

Code: when lots as merged result in an increase in the lot width of more than fifty (50) percent, the maximum gross floor area permitted shall not exceed that which would have otherwise been permitted if these lots were developed individually prior to the reconfiguration.

Section 19.76.020.I.6

6. That the final configuration of a reoriented lot does not result in any reduction of the street side setbacks as currently exist adjacent to a front yard of any adjacent key lot, unless such reduction is accomplished through a zone change to establish appropriate street side setbacks for the reoriented lot. The Planning Commission and City Council in approving the zone change application shall determine that the street side setbacks are appropriate, and are consistent and compatible with the surrounding pattern of development and existing adjacent setbacks.

A. Within the R-1, R-BI, and R-2 Zoning Districts of Balboa Island, Balboa Peninsula, Corona del Mar, Lido Isle, and West Newport, as identified in the Zoning Code: when a lot line adjustment results in an increase in the lot width of more than fifty (50) percent on the largest lot involved in the reconfiguration, the maximum gross floor area permitted on the lot shall not exceed that which would have otherwise been permitted if these lots were developed individually prior to the lot line adjustment.

Section 20.18.030, Table 2-2

TABLE 2-2

**DEVELOPMENT STANDARDS FOR SINGLE-UNIT
RESIDENTIAL ZONING DISTRICTS**

Development Feature	R-A	R-1	R-1- 6,000	R-1- 7,200	R-1- 10,000	Additional Requirements
Lot Dimensions	Minimum dimensions required for each newly created lot.					
Lot Area (1) (2)						
Corner lot	87,120 sq. ft.	6,000 sq. ft.	6,000 sq. ft.	7,200 sq. ft.	10,000 sq. ft.	
Interior lot	87,120 sq. ft.	5,000 sq. ft.	6,000 sq. ft.	7,200 sq. ft.	10,000 sq. ft.	
Lot Width						
Corner lot	125 ft.	60 ft.	60 ft.	70 ft.	90 ft.	
Interior lot	125 ft.	50 ft.	60 ft.	70 ft.	90 ft.	
Lot Depth	N/A	N/A	80 ft.	90 ft.	100 ft.	
Density/Intensity	Each legal lot shall be allowed one single-unit detached dwelling.					
Setbacks	The distances below are minimum setbacks required for primary structures. See Section 20.30.110 (Setback Regulations and Exceptions) for setback measurement, allowed projections into setbacks, and exceptions. The following setbacks shall apply, unless different requirements are identified on the setback maps in which case the setback maps shall control. (See Part 8 of this title.) Side and rear setback areas shown on the setback maps shall be considered front setback areas for the purpose of regulating accessory structures. Also refer to Section 20.48.180 (Residential Development Standards and Design Criteria).					
Front:	20 ft.	20 ft.	20 ft.	20 ft.	15 ft.	20.30.110 20.48.180
Side (interior, each):						20.30.110 20.48.180
Lots 40 ft. wide or less	5 ft.	3 ft. (4)	6 ft.	5 ft.	10 ft.	
Lots wider than 40 ft.	5 ft.	4 ft.	6 ft.	5 ft.	10 ft.	
Side (street side):						20.30.110 20.48.180
Lots 40 ft. wide or less	5 ft.	3 ft.	6 ft.	5 ft.	10 ft.	
Lots wider than 40 ft.	5 ft.	4 ft.	6 ft.	5 ft.	10 ft.	
Rear:	25 ft.	10 ft.	6 ft.	20 ft.	10 ft.	Lots abutting a 10

Abutting Alley:						ft. alley or less that are directly across the alley from the side yard of a lot abutting an alley shall provide a setback for the first floor of at least 10 ft. from the alley.
10 ft. wide or less	N/A	5 ft.	N/A	N/A	N/A	
15 ft. wide or less	N/A	5 ft.	N/A	N/A	N/A	
15'1" to 19'11"	N/A	3'9"	N/A	N/A	N/A	
20 ft. wide or more	N/A	0	N/A	N/A	N/A	
Bluff edge setback	As provided in Section 20.28.040 (Bluff (B) Overlay District).					
Bulkhead setback	Structures shall be set back a minimum of 10 ft. from the bulkhead in each zoning district.					
Site Coverage	Maximum percentage of the total lot area that may be covered by structures.					
Lots 40 ft. wide or less	N/A	N/A	60%	60%	60%	
Lots wider than 40 ft.	40%	N/A	60%	60%	60%	
Floor Area Limit (gross floor area)	N/A		N/A			
Citywide		2.0 (5)(6) <u>(7)</u>				
Corona del Mar		1.5 (5)(6) <u>(7)</u>				
Height (3)	Maximum height of structures without discretionary approval. See Section 20.30.060(C) (Increase in Height Limit) for possible increase in height limit.					
Flat roof	24 ft.	24 ft.	24 ft.	35 ft. and 2 stories	24 ft.	See 20.30.060(C)(2) (Height Limit Areas) and 20.30.060(B) (Height of Structures and Measurement)
Sloped roof; minimum 3/12 pitch	29 ft.	29 ft.	29 ft.	40 ft. and 2 stories	29 ft.	
Bluffs	See Section 20.28.040 (Bluff (B) Overlay District).					
Fencing	See Section 20.30.040 (Fences, Hedges, Walls, and Retaining Walls).					
Landscaping	See Chapter 20.36 (Landscaping Standards).					
Lighting	See Section 20.30.070 (Outdoor Lighting).					
Parking	See Chapter 20.40 (Off-Street Parking).					
Satellite Antennas	See Section 20.48.190 (Satellite Antennas and Amateur Radio Facilities).					
Signs	See Chapter 20.42 (Sign Standards).					

Residential Development Standards	See Section 20.48.180 (Residential Development Standards and Design Criteria).
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Notes:

- (1) All development and the subdivision of land shall comply with the requirements of Title 19 (Subdivisions).
- (2) Lots may be subdivided so that the resulting lot area and dimensions for each new lot are less than that identified in this table in compliance with the provisions of Title 19 (Subdivisions). The minimum lot size shall not be less than the original underlying lots on the same block face and in the same zoning district. Lot width and length may vary according to the width and depth of the original underlying lots. New subdivisions that would result in additional dwelling units beyond what the original underlying lots would allow are not permitted unless authorized by an amendment of the General Plan (GPA).
- (3) On the bluff side of Ocean Boulevard, the maximum height shall not exceed the elevation of the top of the curb abutting the lot.
- (4) Side setback areas for lots designated Special Fire Protection Areas shall be a minimum of five feet unless reduced by the Fire Marshal.
- (5) The floor area of a subterranean basement is not included in the calculation of total gross floor area.
- (6) The maximum gross floor area for a residential structure is determined by multiplying either 1.5 or 2.0 times the buildable area of the lot.

(7) In the R-1 Zoning District of Balboa Island, Balboa Peninsula, Corona del Mar, Lido Isle, or West Newport: existing lots reconfigured by a lot merger, lot line adjustment, or parcel map after [EFFECTIVE DATE] that resulted in an increase in the lot width of more than fifty (50) percent on the largest of lots involved in the reconfiguration, the maximum gross floor area permitted on the lot shall not exceed that which would have otherwise been permitted if these lots were developed individually prior to the reconfiguration.

TABLE 2-3

**DEVELOPMENT STANDARDS FOR TWO-UNIT AND MULTI-UNIT
RESIDENTIAL ZONING DISTRICTS**

Development Feature	R-BI	R-2	R-2-6,000	Additional Requirements
Lot Dimensions	Minimum dimensions required for each newly created lot.			
Lot Area (1) (2) (3)				
Corner lot	2,375 sq. ft.	6,000 sq. ft.	6,000 sq. ft.	
Interior lot	2,375 sq. ft.	5,000 sq. ft.	6,000 sq. ft.	
Lot Width				
Corner lot	60 ft.	60 ft.	60 ft.	
Interior lot	50 ft.	50 ft.	60 ft.	
Lot Depth	N/A	N/A	80 ft.	
Site Area per Dwelling Unit	Minimum required site area per dwelling unit based on net area of the lot.			
	1,000 sq. ft.	1,000 sq. ft.	3,000 sq. ft.	
	No more than 2 units per lot			
Site Coverage	Maximum percentage of the total lot area that may be covered by structures.			
	N/A	N/A	60%	
Floor Area Limit (9) (gross floor area)	1.5 plus 200 sq. ft. <u>(10)</u>	2.0 Citywide (8) 1.5 Corona del Mar (8) <u>(10)</u>	N/A	
Setbacks	The distances below are minimum setbacks required for primary structures. See Section 20.30.110 (Setback Regulations and Exceptions) for setback measurement, allowed projections into setbacks, and exceptions. The following setbacks shall apply, unless different requirements are identified on the setback maps in which case the setback maps shall control. (See Part 8 of this title.) Side and rear setback areas shown on the setback maps shall be considered front setback areas for the purpose of regulating accessory structures. Also refer to Section 20.48.180 (Residential Development Standards and Design Criteria).			
Front:	20 ft.	20 ft.	20 ft.	

Side (interior, each):				
Lots 40 ft. wide or less	3 ft.	3 ft.	6 ft.	
Lots 40'1" wide to 49'11" wide	4 ft.	4 ft.	6 ft.	
Lots 50 ft. wide and greater	N/A	4 ft.	6 ft.	
Side (street side):				
Lots 40 ft. wide or less	3 ft. <u>(10)</u>	3 ft.	N/A	
Lots 40'1" wide to 49'11" wide	4 ft.	4 ft.	N/A	
Lots 50 ft. wide and greater	N/A	N/A	6 ft.	
Rear:	10 ft.	10 ft.	6 ft.	Lots abutting a 10 ft. alley or less that are directly across the alley from the side yard of a lot abutting the alley shall provide a setback for the first floor of at least 10 ft. from the alley.
Abutting Alley				
10 ft. wide or less	5 ft.	5 ft.	N/A	
15 ft. wide or less	5 ft.	5 ft.	N/A	
15'1" to 19'11"	3'9"	3'9"	N/A	
20 ft. wide or more	0	0	N/A	
Waterfront	10 ft.	10 ft.	N/A	
Bluff edge setback	As provided in Section 20.28.040 (Bluff (B) Overlay District).			
Bulkhead setback	Structures shall be set back a minimum of 10 ft. from the bulkhead in each zoning district.			
Height (6)	Maximum height of structures without discretionary approval. See Section 20.30.060(C) (Increase in Height Limit) for possible increase in height limit.			
Flat roof	24 ft.	24 ft.	24 ft.	See Section 20.30.060(C) (Increase in Height Limit)
Sloped roof; minimum 3/12 pitch	29 ft.	29 ft.	29 ft.	
Bluffs	See Section 20.28.040 (Bluff (B) Overlay District).			
Fencing	See Section 20.30.040 (Fences, Hedges, Walls and Retaining Walls).			
Landscaping	See Chapter 20.36 (Landscaping Standards).			
Lighting	See Section 20.30.070 (Outdoor Lighting).			
Parking	See Chapter 20.40 (Off-Street Parking).			

Satellite Antennas	See Section 20.48.190 (Satellite Antennas and Amateur Radio Facilities).
Signs	See Chapter 20.42 (Sign Standards).
Residential Development Standards	See Section 20.48.180.

Notes:

- (1) All development and the subdivision of land shall comply with the requirements of Title 19 (Subdivisions).
- (2) Lots may be subdivided so that the resulting lot area and dimensions for each new lot are less than that identified in this table in compliance with the provisions of Title 19 (Subdivisions). The minimum lot size shall not be less than the original underlying lots on the same block face and in the same zoning district. Lot width and length may vary according to the width and depth of the original underlying lots. New subdivisions that would result in additional dwelling units beyond what the original underlying lots would allow are not permitted unless authorized by an amendment of the General Plan (GPA).
- (3) On a site of less than five thousand (5,000) square feet that existed prior to March 10, 1976, a two-family dwelling may be constructed; provided, that there shall be not less than one thousand (1,000) square feet of land area for each dwelling unit.
- (4) The total gross floor area contained in all buildings and structures on a development site shall not exceed 1.75 times the buildable area of the site or 1.5 times the buildable area of the site in Corona del Mar; provided, that up to two hundred (200) square feet of floor area per required parking space devoted to enclosed parking shall not be included in calculations of total gross floor area.
- (5) Interior and street side setback areas are not required to be wider than fifteen (15) feet; however, the side setback area on the street side of a corner lot, where the abutting lot has a reversed frontage, shall not be less than the front setback area required on the abutting reversed frontage.
- (6) On the bluff side of Ocean Boulevard, the maximum height shall not exceed the elevation of the top of the curb abutting the lot.
- (7) Portions of legal lots that have a slope greater than two-to-one (2:1) or that are submerged lands or tidelands shall be excluded from the land area of the lot for the purpose of determining the allowable number of units.
- (8) The floor area of a subterranean basement is not included in the calculation of total gross floor area.
- (9) The maximum gross floor area for a residential structure is determined by multiplying either 1.5 or 2.0 times the buildable area of the lot.
- (10) In the R-BI and R-2 Zoning Districts of Balboa Island, Balboa Peninsula, Corona del Mar, or West Newport: existing lots reconfigured by a lot merger, lot line adjustment, or parcel map after [EFFECTIVE DATE] that resulted in an increase in the lot width of more than fifty (50) percent on the largest of lots involved in the reconfiguration, the maximum gross floor area permitted on the lot shall not exceed that which would have otherwise been permitted if these lots were developed individually prior to the reconfiguration.